

MCNICKLE, SASHA W

From: Michelle Darst <michelle.darst@shell.com>
Sent: Friday, April 14, 2017 1:46 AM
To: CBP-PUBLICATION RESPONSE
Subject: Oppose any changes to Jones Act

Dear US Customs and Border Protection: Good day~ I am writing today to strongly urge you to REJECT the Customs and Border Protection (CBP) Agency's proposed modifications and revocations related to the use of Jones Act vessels in offshore oil and natural gas activities on January 18, 2017. The proposed modifications and revocations will have a wide range of repercussions on American oil and gas production in the Gulf of Mexico, but also supported employment, gross domestic product, as well as government revenue. If the proposed changes are accepted, cumulative spending on offshore oil and natural gas development in the Gulf of Mexico OCS will decrease in the range of \$5.4 billion (15 percent) per year. With the decreased spending come the loss of 30 thousand jobs in 2017 and an average decreased employment of over 80 thousand jobs from 2017 to 2030. Altering the Jones Act in this way would also mean an average loss of \$1.9 billion of government revenue per year from 2017 to 2030, placing additional strain on already overly burdened government budgets to maintain public projects and works. It would be a terrible mistake to allow the proposed changes to be adopted. Once again, I urge you to reject the CBP's proposed modifications and revocations related to the use of Jones Act. As a natural-born and all-American employed citizen I have always held hope and admiration for the government listening to the voice of the people and I truly hope that the grave concerns and worries we are voicing are heard. Thank you for your time. Sincerely, Michelle Darst 620 Mountain View Dr Mount Vernon, WA 98273-3030



MASTER BOAT BUILDERS
— I N C. —

April 14, 2017

Via email: cbppublicationresponse@cbp.dhs.gov

Mr. Glen Vereb
Director
Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection

Re: Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points; Request for expeditious implementation of the proposal

To Whom It May Concern:

Master Boat Builders, Inc is a three-generation family owned shipbuilding company located in Coden, Alabama. Over the past 20 years we have primarily built vessels that service the production and exploration of oil and natural gas in the Gulf of Mexico. Currently we employ over 200 employees which makes us one of the largest employers in South Mobile County, Alabama. The purpose of this letter is to express our support for CBP's proposed modification and revocation of Jones Act letter rulings that are contrary to the statute.

The U.S. shipbuilding industry is vital to our country's national security interests, as well as the provision of meaningful employment to a highly skilled workforce, and the proper interpretation and enforcement of the Jones Act has a direct impact on our shipyard. Since inception, our shipyard has constructed over 375 Jones Act qualified vessels and CBP's proposal encourages further investment in Jones Act compliant vessels, contrary to the chilling effect that CBP interpretations have had over the past many decades. The current CBP action, and correction of prior erroneous interpretations, is a welcomed development.

From its inception, the Jones Act has been a "Pro-American" statute, grounded firmly in a national defense policy of ensuring domestic shipbuilding and seafaring capacity, and in a national commercial policy of ensuring a strong domestic maritime industry. Our U.S. Congress explained it best in the Jones Act preamble, specifically: "[i]t is the policy of the United States to encourage and aid the development and maintenance of a merchant marine...sufficient to carry the waterborne domestic commerce. . .of the United States." U.S. Department of Defense ("DOD"), Navy, and U.S. Coast Guard officials are among the strongest supporters of the Jones Act for the contribution it makes to military sealift, all recognizing the critical importance of the statute.

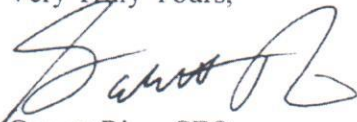
P 251-824-2388 F 251-824-4401 | P.O Box 702 | Bayou La Batre, AL 36509

MasterBoat.net

In addition to national security, the prior erroneous interpretations of the Jones Act worked to send American jobs to foreign shipbuilding interests, eliminating tens of thousands of American jobs and billions of dollars of American investment in the process, and the CBP's recent actions serve to correct that path.

CBPs expeditious implementation of the current proposed actions will mean higher American wages, additional American tax revenue, more American economic activity and heightened national security at a time when it is most needed.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Garrett Rice", written in a cursive style.

Garrett Rice, CFO
Master Boat Builders, Inc.

CEDRIC L. RICHMOND
2ND DISTRICT, LOUISIANA

COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEES:
CYBERSECURITY AND INFRASTRUCTURE PROTECTION,
RANKING MEMBER

BORDER AND MARITIME SECURITY

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEES:

CRIME, TERRORISM, HOMELAND SECURITY
AND INVESTIGATION

COURTS, INTELLECTUAL PROPERTY AND
THE INTERNET

CONGRESSIONAL BLACK CAUCUS, CHAIR

Congress of the United States
House of Representatives
Washington, DC 20515-1802

420 CANNON HOUSE OFFICE BUILDING
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(202) 225-6636

DISTRICT OFFICES:
2021 LAKESHORE DRIVE
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NEW ORLEANS, LA 70122
(504) 288-3777

200 DERBIGNY STREET
SUITE 3200
GRETN, LA 70053
(504) 365-0390

1520 THOMAS H. DELPIT DRIVE
SUITE 126
BATON ROUGE, LA 70802
(225) 636-5600

April 13, 2017

Mr. Glen E. Vereb
Director, Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection
90 K Street, NE
Washington, DC 20229

Re: **Request for expeditious implementation of Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points**

Dear Mr. Vereb:

Since the beginning of our nation, the maritime industry has played the vital role of connecting people, goods and information worldwide. Every day, the maritime industry facilitates trade, commerce and creates jobs in the United States, and because of this, I write in support of Custom and Border Protection's (CBP) proposal to ensure the nation's trade laws for vessel transportation activities on the Outer Continental Shelf are able to meet the challenges of the 21st century. The proposed notice published January 18, 2017 in the *Customs Bulletin*, will reinstate components of the Jones Act to promote offshore transportation activities, and will allow for continued development of natural resources and trade on the Outer Continental Shelf, while also providing employment opportunities for hardworking Americans.

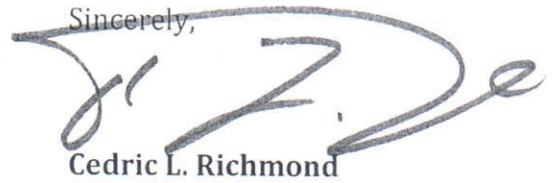
As mandated by the Jones Act, the Customs proposal requiring coastwise transportation of merchandise on the Outer Continental Shelf to U.S. crewed, U.S. built, U.S. owned, and U.S.-flagged vessels is a necessary step for the continued development and operation of the U.S. merchant marine industry. The Jones Act is vital to national and economic security, and the CBP proposal will positively enhance U.S. transportation operations.

There are numerous American-built and owned vessels with U.S.-citizen mariners that are ready, willing, and able to perform Jones Act-required transportation functions. As the maritime industry continues to grow and evolve, it is imperative that the Jones Act is

applied in a way that will promote innovation and encourage domestic competition in the maritime industry. In fact, since the first 2009 notice from CBP, American ship owners have invested over \$2 billion in Jones Act vessels to perform this work.

On behalf of the U.S.-flag maritime industry and American mariners, and in support of our country's national and economic security, I strongly support CBP's proposal to restore key elements of the Jones Act by finalizing the modification and revocation of the CBP ruling letters as set forth in the CBP Notice.

Sincerely,

A handwritten signature in dark ink, appearing to read 'C. Richmond', with a large, stylized flourish extending to the right.

Cedric L. Richmond

MCNICKLE, SASHA W

From: Brent Seifert <bseif28@yahoo.com>
Sent: Friday, April 14, 2017 10:26 AM
To: CBP-PUBLICATION RESPONSE
Subject: Oppose any changes to Jones Act

Dear US Customs and Border Protection: I am writing today to strongly urge you to REJECT the Customs and Border Protection (CBP) Agency\'s proposed modifications and revocations related to the use of Jones Act vessels in offshore oil and natural gas activities on January 18, 2017. ____ The proposed modifications and revocations will have a wide range of repercussions on American oil and gas production in the Gulf of Mexico, but also supported employment, gross domestic product, as well as government revenue. Please review what this type of policy had done to the price of vessel work in Australia. It has increased the prices to the point that offshore work is hampered. ____ If the proposed changes are accepted, cumulative spending on offshore oil and natural gas development in the Gulf of Mexico OCS will decrease in the range of \$5.4 billion (15 percent) per year. With the decreased spending come the loss of 30 thousand jobs in 2017 and an average decreased employment of over 80 thousand jobs from 2017 to 2030. ____ Altering the Jones Act in this way would also mean an average loss of \$1.9 billion of government revenue per year from 2017 to 2030, placing additional strain on already overly burdened government budgets to maintain public projects and works. ____ It would be a terrible mistake to allow the proposed changes to be adopted. Once again, I urge you to reject the CBP\'s proposed modifications and revocations related to the use of Jones Act. __ Sincerely, Brent Seifert 30914 Shady Oak Dr Fulshear, TX 77441-1608

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

Ann M. Beauchesne
Senior Vice President
National Security And Emergency Preparedness

1615 H Street, NW
Washington, DC 20062-2000
(202) 463-3100
abeauchesne@uschamber.com

April 14, 2017

Kevin McAleenan
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, NW
Washington, DC 20229

Dear Acting Commissioner McAleenan:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than 3 million businesses of every size, sector, and region, submits these comments to the U.S. Customs and Border Protection's (CBP's) "Proposed Modification and Revocation of Ruling Letters Relating to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment Between Coastwise Points," *Customs Bulletin* from January 18, 2017. The Chamber believes and requests that any proposed modifications of CBP's long-standing policy regarding the applicability of the Jones Act should only proceed through notice-and-comment rulemaking, consistent with the agency's own prior determination and within the requirements of the Administrative Procedure Act (APA).

Every year federal agencies issue thousands of guidance documents in the form of letters, preamble statements, memoranda, revocations, modifications, and policy statements that are designed to clarify or interpret what regulated entities must do to comply with laws and regulations that agencies administer. However, these guidance documents often impose additional regulatory requirements that are legally binding upon regulated entities, and thus constitute legislative rules that require notice-and-comment rulemaking. Or even if they do not, they so fundamentally change the agency's interpretation of an existing regulation or policy in a manner that undermines the reasonable reliance interests of regulated businesses that, as a matter of good government, the agency should use notice-and-comment procedures. The Chamber made this argument and submitted it for the public record on August 16, 2009, in *Customs Bulletin* item "Transportation of Certain Merchandise and Equipment between Coastwise Points" from July 17, 2009, which largely mirrored the agency's current efforts.

CBP has already agreed with the Chamber's argument. In 2010, the agency concluded that such a change must go through notice-and-comment rulemaking, issuing an Advance Notice of Proposed Rulemaking on April 26, 2010. It stated that the agency must go through the rulemaking process "[b]ecause any determination on this matter made by CBP would impact a

Kevin McAleenan
April 14, 2017
Page 2

broad range of regulated parties, and the scope of potential economic impact of any change in existing practice is unknown.”¹

Although that rulemaking process was subsequently terminated,² there is no reason now to question the conclusion CBP reached in April 2010. Such an interpretive change must go through notice-and-comment rulemaking. This is consistent with the Chamber’s comments to the 2009 proposal, where the Chamber explained that “sub-regulatory” guidance documents often impose onerous regulatory requirements, or even fundamentally change an agency’s interpretation of existing regulation or policy, without providing the public with a fair opportunity to challenge an agency’s legal or factual conclusions.

As CBP itself has acknowledged, the proposed modifications to nearly 40 years of agency precedent would impact a broad range of parties with potentially significant economic effects. Should the CBP wish to proceed with proposing such modifications, it should only do so within the principles set forth in presidential memoranda, executive orders, and the procedural requirements of the APA.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dan Beauchamp", is centered below the word "Sincerely,".

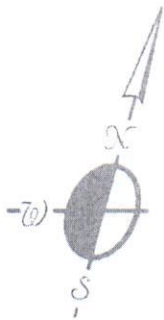
¹ 75 Fed. Reg. 21,811 (April 26, 2010)

² 75 Fed. Reg. 79,793 (Dec. 20, 2010)

MCNICKLE, SASHA W

From: John Johnson <john.johnson2@shell.com>
Sent: Friday, April 14, 2017 12:57 PM
To: CBP-PUBLICATION RESPONSE
Subject: Oppose any changes to Jones Act

Dear US Customs and Border Protection: Any significant and not slowly phased changes in regulatory policy will have a significant and potentially undesirable effect. Many US and multinational oil companies operate in the Gulf of Mexico and any sudden changes would have significant undesirable business effects that would serve to undermine employment and beneficial impact in the area. Improved phasing (staged/delayed implementation) will better help business response and achieve the desired goals without the short term negative implications. ___ I am writing today to strongly urge you to REJECT the Customs and Border Protection (CBP) Agency\'s proposed modifications and revocations related to the use of Jones Act vessels in offshore oil and natural gas activities on January 18, 2017. ___ The proposed modifications and revocations will have a wide range of repercussions on American oil and gas production in the Gulf of Mexico, but also supported employment, gross domestic product, as well as government revenue. ___ If the proposed changes are accepted, cumulative spending on offshore oil and natural gas development in the Gulf of Mexico OCS will decrease in the range of \$5.4 billion (15 percent) per year. With the decreased spending come the loss of 30 thousand jobs in 2017 and an average decreased employment of over 80 thousand jobs from 2017 to 2030. ___ Altering the Jones Act in this way would also mean an average loss of \$1.9 billion of government revenue per year from 2017 to 2030, placing additional strain on already overly burdened government budgets to maintain public projects and works. ___ It would be a terrible mistake to allow the proposed changes to be adopted. Once again, I urge you to reject the CBP\'s proposed modifications and revocations related to the use of Jones Act. ___ Sincerely, John Johnson 1318 Goliad St Houston, TX 77007-4207



EASTERN SHIPBUILDING GROUP

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2200 NELSON ST.
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PHONE (850) 763-1900
FAX (850) 763-7904
EMAIL info@easternshipbuilding.com

April 12, 2017

Via email: cbppublicationresponse@cbp.dhs.gov

Mr. Glen Vereb
Director
Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection

Re: **Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points; Request for expeditious implementation of the proposal**

Dear Director Vereb:

As a former Commandant of the United States Coast Guard, I am writing in support of the Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points as listed in the January 18, 2017 issue of the *Customs Bulletin* (the "Notice"). This Notice will ensure the Jones Act is properly enforced, thereby ensuring our nation has the continued national and homeland security benefits provided by this statute.

Our nation has always had a strong maritime tradition, dating back to the first cabotage law passed by Congress and signed into law in 1789. The modern iteration of this law, the Jones Act, clearly articulates the purpose of this law and the policy of our country:

It is necessary for the national defense and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine . . . sufficient to carry the waterborne domestic commerce and a substantial part of the waterborne export . . . capable of serving as a naval and military auxiliary in time of war or national emergency . . . [and] capable of serving as a naval and military auxiliary in time of war or national emergency. (46 U.S.C. § 50101)

This law has worked as intended. The domestic shipyard industrial base is fully capable of building, repairing, maintaining, and modernizing the U.S. Coast Guard ships and crafts. These ships and the men and women who serve upon them are the premier maritime multi-mission force. Without a doubt they are both a force multiplier for the United States Navy the world over and also a law enforcement agency charged with protecting our maritime borders. Without the Jones Act, the shipyards, suppliers, and expertise utilized to construct these ships would simply not be found in this country. Thus, absent the Jones Act, the United States Coast Guard would not have the domestic capability to rival most of the world's navies in terms of capabilities and number of vessels. As such, the United States Coast Guard would be forced to utilize shipyards in other countries or take on billions in increased costs to ensure we could build the military vessels our nation requires.

The Jones Act's benefits are also economic in nature, the Jones Act has created a robust domestic maritime industry, one that creates 500,000 jobs, \$100 billion in annual economic output, and \$29 billion annual in wages. In addition, the maritime industry provides \$10 billion in tax revenue to the federal government.

Proper enforcement of the Jones Act, via expeditious implementation of the Notice will only increase these benefits. As proof of this statement, I note the domestic maritime industry's reaction to the similar notice issued by Customs and Border Protection ("CBP") in 2009. When CBP offered, and subsequently withdrew, this similar notice, it caused the domestic offshore service industry to invest \$2 billion constructing subsea construction/inspection, maintenance, repair (IMR) vessels—the type of vessels required to complete the work covered by the notice—in U.S. shipyards. As a result, our nation now has one of the most technologically advanced fleets of these specialty vessels, and many of our yards have earned the capital necessary to increase and modernize their yards, thereby allowing them to provide a better service to the U.S. Navy and other government shipbuilding operations.

Considering the above information, I am confident that expeditious implementation of the Notice and proper enforcement of the Jones Act will improve our domestic shipbuilding capabilities which will thereby provide for our national, homeland, and economic security.

Sincerely,

A handwritten signature in black ink that reads "R. J. Papp, Jr." in a cursive script.

Admiral Bob Papp USCG (Ret.)
President, Washington Operations
Eastern Shipbuilding Group, Inc.



Leeco Steel , LLC
2605 East 39th Street
Chattanooga, TN 15003

April 14th, 2017

Via email: CBPPublicationsResponse@cbp.dhs.gov

Mr. Glen Vereb
Director
Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection

**Re: Proposed Modification and Revocation of Ruling Letters Related to Customs Application
of the Jones Act to the Transportation of Certain Merchandise and Equipment between
Coastwise Points; Request for expeditious implementation of the proposal**

To Whom It May Concern:

On behalf of the 137 employees of Leeco Steel, LLC., we write to express our support for CBP's proposed modification and revocation of Jones Act letter rulings that are contrary to the statute. The U.S. steel and shipbuilding industries enjoy a long relationship. We are proud of the steel we have provided to U.S. shipbuilders that has been used to construct Jones Act qualified ships. When U.S. shipyards purchase our steel, they ensure employment for our workforce which has an additional beneficial impact on our U.S. supply chain.

Proper interpretation and enforcement of the Jones Act has a direct impact on us. Over the last 5 years we have supplied 100's of thousands of tons of steel to U.S. shipyards and supporting industries to build Jones Act ships. CBP's proposal encourages further investment in Jones Act compliant vessels. We believe that the legally incorrect interpretation of the Jones Act by CBP over several decades stifled investment in subsea construction vessels. Instead of U.S. steel being used in vessels which support operations on the outer-continental shelf, foreign steel has been used. CBP's course correction is a welcome development and we applaud it.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Barcelona".

Tom Barcelona
Regional Manager
Leeco Steel, LLC.
tbarcelona@leecosteel.com
423-290-7138

CH-IV Corporation

8775 Centre Park Drive, #321

Columbia, MD 21045

CH4Jeff@gmail.com

410-206-3132

April 14, 2017

Jeffrey P. Beale
Principal

**Mr. Glen Vereb, Director
Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection**

**Subject: Request for expeditious implementation of the Proposed
Modification and Revocation of Ruling Letters Related to
Customs Application of the Jones Act to the Transportation of
Certain Merchandise and Equipment between Coastwise Points**

Dear Director Vereb:

I am writing to express my strong support for Customs and Border Protection's (CBP) above-listed proposed modification and revocation of Jones Act letter rulings (the "Notice"). These flawed letter rulings are inconsistent with statutory requirements and have constrained economic opportunity for U.S. companies and U.S. workers for too long. Aligning CBP's policy guidance with the law is the right thing to do and the method in which CBP is seeking revocation is the legally correct method for this endeavor.

CH-IV Corporation is an LNG consulting/engineering entity based in Columbia, Maryland. One area of major involvement is supporting the development of LNG-powered marine vessels and the associated land and sea-based LNG bunkering systems.

The Jones Act was intended to support a vibrant U.S. maritime industry. By all accounts, the law works as intended. The Jones Act has created a robust domestic maritime industry and supply chain, one that creates 500,000 jobs, \$100 billion in annual economic output, and \$29 billion annual in wages. In addition, the maritime industry provides \$10 billion in tax revenue to the federal government. Correctly applying and enforcing the Jones Act, will only amplify these benefits, resulting in more opportunities for companies like mine who depend on a strong U.S. maritime industry.

Additionally, we note that CBP is correct to revoke the letter rulings covered by the Notice via the process found at 19 U.S.C. 1625(c) ("Section 1625"). This process provides for a fair process while allowing revocation to take place in an expedited fashion. The letter rulings were originally issued by CBP without any consideration of the economic harm they would cause to the domestic maritime community or businesses like ours. As a result, our industry has experienced decades of delayed shipbuilding in U.S. shipyards and lost employment of U.S. mariners.

As such, the consideration and comment that opponents of revocation have received under the current process, far exceeds absolute lack of due process provided when these letter rulings were issued. Thus, we believe the current process to be more than fair. It is also worth noting that the notice, comment, consideration, final notice process being utilized for the Notice is being conducted after CBP has considered this issue for eight years.

Not only is the Section 1625 process fair, it is also the legally designated process for revocation of letter rulings. Congress has mandated by statute a unique process for CPB's revocation of a letter ruling under Section 1625. Specifically, under this statute, CBP must give notice in the *Customs Bulletin* of its intent to revoke and provide at least 30 days opportunity for comment by the public. Subsequently, CBP must publish its final decision within 30 days of the close of the comment period. This final ruling or decision "shall" become effective 60 days after the date of its publication.

The U.S. Court of Appeals for the Federal Circuit has confirmed that 19 U.S.C. § 1625 is the proper procedure for revoking prior letter rulings. Specifically, the court state in a case (*California Indus. Prods. v. United States*, 436 F. 3d 1341, 1356 (Fed. Cir. 2006)) containing a similar context:

The government argues that the interpretation of "substantially identical transactions" in section 1625(c) adopted by the Court of International Trade conflicts with the Secretary's power to promulgate binding regulations. Under such an interpretation, the government states, the Secretary will be forced to follow "treatments" established by what it terms "aberrant decisions" of Customs officers. We do not agree . . . [c]ontrary to the government's argument, the interpretation of "substantially identical transactions" that we think is correct does not limit the Secretary's authority to change a prior "treatment." It simply requires that the Secretary utilize notice and comment procedures under 19 U.S.C. § 1625(c) before doing so.

CH-IV Corporation
To: Mr. Glen Vereb

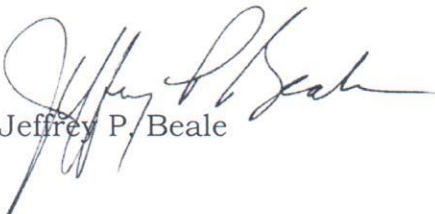
April 14, 2017
Page 3 of 3

Considering the above information, CBP's Notice ensures that the law is followed as written, will promote the U.S. industrial base as intended by the Jones Act, was completed after thoughtful consideration and provides ample amount for comments from all impacted parties, and was conducted under the legally prescribed process. As such, our company strongly supports the Notice and urges CBP to implement this notice in an expedited manner.

We thank you for your thoughtful consideration of this request and stand ready to answer any questions you may have.

Thank you for taking this corrective action.

Sincerely,



Jeffrey P. Beale

JPB/17-122-LTR-01



JAMESTOWN

April 13, 2017

Via email: cbppublicationresponse@cbp.dhs.gov

Mr. Glen Vereb
Director
Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection

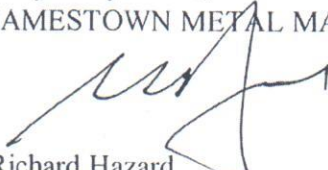
Re: Proposed Modification and Revocation of Ruling Letters Related to Customs
Application of the Jones Act to the Transportation of Certain Merchandise and
Equipment between Coastwise Points; Request for expeditious implementation of the
Proposal

To Whom It May Concern:

On behalf of the 500 employees of Jamestown Metal Marine Sales, Inc. (Jamestown), we write to express our support for CBP's proposed modification and revocation of Jones Act letter rulings that are contrary to the statute. Jamestown and shipbuilding industries enjoy a long relationship over our 44 years of being in business. We are proud of the interior accommodations we have provided to U.S. shipbuilders that have been used to construct Jones Act qualified ships. When U.S. shipyards purchase our services, they ensure employment for our workforce and suppliers, which has an additional beneficial impact on our U.S. supply chain.

Proper interpretation and enforcement of the Jones Act has a direct impact on us. We would not be able to remain in business if the Jones act were not in place and being properly enforced. CBP's proposal encourages further investment in Jones Act compliant vessels. We believe that the legally incorrect interpretation of the Jones Act by CBP over several decades stifled investment in subsea construction vessels. Instead, foreign vessels are being used to support operations on the outer-continental shelf. CBP's course correction is a welcome development and we applaud it.

Very Truly Yours,
JAMESTOWN METAL MARINE SALES, INC.



Richard Hazard
President

NAVY LEAGUE

of the United States



April 14, 2017

Via email: cbppublicationresponse@cbp.dhs.gov

Mr. Glen Vereb
Director
Border Security and Trade Compliance Division
Office of Trade, Regulations, and Rulings
U.S. Customs and Border Protection

Dear Director Vereb:

On behalf of the 46,000 members of the Navy League of the United States, I write in support of the Notice of Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points ("2017 Notice"). The Navy League supports the 2017 Notice. We urge this notice be put into effect as soon as possible, given the "tipping point" of available mariners General Darren McDew, Commander of U.S. Transportation Command, testified to during his March 30th House Armed Services Committee hearing. In addition to strengthening the pool of mariners needed for national security, the Jones Act sustains U.S. shipbuilding and provides an additional layer of security and safety for our ports and inland waterways. Using Jones Act vessels for offshore oil and natural gas activities will strengthen this important piece of legislation, increase mariner jobs, and fortify our national security.

The benefit to U.S. mariners, shipyards, and ship owners will be significant. The revocation of the waivers could provide up to 1000 Merchant Mariners for the Ready Reserve Fleet, ready to surge as needed.

This rule change will lead to more ships built in US shipyards by US citizens and an increase in our pool of trained mariners. This decision will improve the long-term sustainability of the U.S. fleet and the health of the U.S. shipbuilding industry. The Jones Act aids in controlling shipbuilding costs for the Navy, the Marine Corps and the Coast Guard by ensuring the health of the industrial base.

The House Armed Services Committee is solidly on record in support of the need for a strong and healthy domestic maritime industry. The Government Accountability Office (GAO), in a Jones Act study, correctly noted that "the military strategy of the United States relies on the use of commercial U.S.-flag ships and crews and the availability of a shipyard industrial base to support national defense needs."

In addition to the resources it provides our overall national security apparatus, the Jones Act also reduces the inspections workload for the United States Coast Guard. During a Congressional hearing in 2016, the Commandant of the Coast Guard, Admiral Paul Zukunft, stated, regarding the Jones Act, "We inspect foreign ships that we trade with and on any given day we detain two or three ships because they are not in compliance even though the flag state claims they are in compliance. The US does have a higher standard for safety and security and no one does it better than the United States...My biggest focus is what does it due to our resiliency as a maritime nation—quite honestly it will bankrupt our maritime resiliency. When we look at the challenges that the Maritime Administrator and TRANSCOM are facing in the event of a contingency and we don't have a lift within the US fleet to respond to a contingency at a point in time that we are seeing the reemergence of pure competitors—it is in our nation's best interest to protect our maritime resiliency and the Jones Act does provide that wherewithal."

The Lexington Institute has echoed the Navy League's message that the Jones Act is crucial to maritime, homeland, and national security, stating that "The task of securing U.S. seaports and foreign cargoes is daunting by itself. It makes no sense to add to the burden facing domestic security agencies by allowing foreign-owned ships operated by foreign crews to move freely throughout America's inland lakes, rivers, and waterways."

This regulatory change will close loopholes that gave preference to foreign workers and foreign shipbuilding at the expense of American workers and American homeland security.

The Navy League of the United States is a nonprofit, nonpartisan organization dedicated to informing the American people and the U.S. government that America is a maritime nation, and that its national defense and economic wellbeing are dependent upon strong sea services — U.S. Navy, Marine Corps, Coast Guard and U.S.-flag Merchant Marine.

Thank you for your consideration,



Skip Witunski
National President
Navy League of the United States



April 4, 2017

U.S. Customs and Border Protection
Office of Trade, Regulations and Rulings
Cargo Security and Restricted Merchandise Branch
Washington, D.C. 20229

Via E-Mail: CBP-Publication Response@cbp.dhs.gov

Re: Proposed Modification and Revocation of Ruling Letters Relating to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points

To Whom It May Concern:

Coastal Transportation, Inc. ("Coastal") appreciates this opportunity to comment in support of the U.S. Customs and Border Protection ("CBP") notice proposing to modify and revoke certain CBP ruling letters relating to the application of the Jones Act (the "Notice").¹

Coastal is a U.S. flag marine transportation company operating five vessels in the Jones Act trade with scheduled year-round sailings between Seattle and ports throughout Western Alaska and the Aleutian Islands. Its cargo vessels average 260 feet in length, with hold capacities averaging 100,000 cubic feet. Over the past 30 years Coastal has made continuous investments in reliance on the Jones Act and just last year delivered the *M/V Coastal Standard*, the first brand new U.S.-built, U.S. flag vessel to enter the Western Alaska trade in more than 20 years. Coastal provides jobs for over 130 employees on board the vessels and in the company's terminal facilities in Seattle and Dutch Harbor.

Coastal applauds CBP's proposal to undertake this review of certain of its rulings to be sure that the coastwise laws continue to be interpreted as Congress originally intended. The United States

¹ 51 Cust. B. & Dec. No. 3, p. 1 (January 18, 2017) and 51 Cust. B. & Dec. No. 6 (February 6, 2017) (extending the comment period to April 18, 2017).



has reserved the domestic trades for U.S. flag vessels for more than 200 years.² Not only are the coastwise laws the foundation of our maritime heritage but they continue to play a critical role in support of our nation's economic, national, and homeland security.

An important mechanism helping to achieve those objectives is the use of the process set forth at 19 U.S.C. Sec. 1625(c) for periodically reviewing rulings in order to reflect subsequent changes in the law as well as to resolve inconsistencies in interpretation that may have developed over the years. Not only does this help to provide guidance for all participants in the trade, but it helps insure that the U.S. maritime industry can operate without being unfairly disadvantaged through the use of foreign-flag vessels that are foreign-built and foreign-crewed, and not subject to the same requirements as our fleet.

The current Notice reinforces these policies goals by proposing to correct the incremental misapplication of a particular 1976 ruling involving pipelaying activities in which CBP found a range of activities undertaken by a pipeline repair vessel on the outer continental shelf ("OCS") to be permissible.³ Subsequent changes in the law have made it necessary for CBP to revisit that early analysis. Amendments to the coastwise laws, the Outer Continental Shelf Lands Act, and Customs regulations required reconciliation with the underlying Jones Act. Accordingly, CBP proposed to modify that ruling in several respects as clearly spelled out in the draft ruling accompanying the Notice so that all industry sectors are on notice of the legal requirements.

The Notice also addresses another issue involving CBP's long-time recognition that certain limited categories of materials and supplies carried aboard a vessel constitute "vessel equipment" and not merchandise subject to the coastwise laws. In reliance on Section 309 of the Tariff Act of 1930, CBP determined that vessel equipment constitutes only those articles "necessary and appropriate for the navigation, operation or maintenance of the vessel and for the comfort and safety of persons onboard."⁴ Over the years that definition had been effectively expanded in various rulings to include items transported in furtherance of the vessel's mission. CBP now proposes to underscore that vessel equipment should be limited to articles necessary and appropriate for the navigation, operation, and maintenance of the vessel itself, and not what might be necessary and appropriate for an activity in which the vessel is engaged.

Although Coastal is not involved in the kinds of pipelaying operations addressed in the 1976 ruling, nor in activities in direct support of OCS oil exploration and production, Coastal strongly

² 3 Stat. 351 (Mar. 1, 1817); see also Act of Sept. 1, 1789, ch. xi, §1, 1 Stat. 55.

³ T.D. 78-387 (Oct. 7, 1976). The coastwise laws apply to the territorial sea and internal waters, and also to certain points beyond the territorial sea under the Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 *et seq.*, and other laws.

⁴ T.D. 49815(4) (Feb. 16, 1939).



supports CBP's proposed treatment of rulings that erroneously permitted merchandise to be transported between coastwise points aboard non-coastwise qualified vessels and its reinforcement of the original standard as to what constitutes vessel equipment under the coastwise laws.

Coastal appreciates this opportunity to comment on the Notice and commends CBP's diligence in enforcing the nation's coastwise laws by reviewing its prior rulings in light of changes in the law, the need to reconcile inconsistencies, and to treat rulings in a manner that is consistent with Congressional intent. Proper application of U.S. coastwise laws is vitally important not only to our company and the investments we have made over the years, but also to the country's overall economic, national, and homeland security. For these reasons Coastal urges CBP to move forward with the implementation of this Notice in the near term and to continue its important role in support of our nation's coastwise laws.

Sincerely,

Peter Strong
President
Coastal Transportation, Inc.